House File 538 - Enrolled

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                                                          HOUSE FILE 538
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                                        AN ACT
     4 REVISING CHILD WELFARE REQUIREMENTS INVOLVING CHILDREN WITH
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          MENTAL HEALTH, BEHAVIORAL, OR EMOTIONAL DISORDERS AND
           PROVIDING A CONTINGENT EFFECTIVE DATE.
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     8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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          Section 1. Section 135H.6, Code 2005, is amended by adding
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    11 the following new subsection:
          NEW SUBSECTION. 11. If a child has an emotional,
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  1 13 behavioral, or mental health disorder, the psychiatric
    14 institution does not require court proceedings to be initiated
  1 15 or that a child's parent, guardian, or custodian must
  1 16 terminate parental rights over or transfer legal custody of 1 17 the child for the purpose of obtaining treatment from the 1 18 psychiatric institution for the child. Relinquishment of a
  1 19 child's custody shall not be a condition of the child
  1 20 receiving services.
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           Sec. 2. Section 232.2, subsection 6, paragraph f, Code
  1 22 2005, is amended to read as follows:
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           f. Who is in need of treatment to cure or alleviate
    24 serious mental illness or disorder, or emotional damage as
  1 25 evidenced by severe anxiety, depression, withdrawal or 1 26 untoward aggressive behavior toward self or others and whose
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    27 parent, guardian, or custodian is unwilling or unable to
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    28 provide such treatment.
           Sec. 3. Section 234.7, Code 2005, is amended to read as
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  1 30 follows:
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           234.7
                  DEPARTMENT DUTIES.
            . The department of human services shall comply with the
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    33 following requirement associated with child foster care
    34 licensees under chapter 237:
35 The department shall include a child's foster parent in,
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     1 and provide timely notice of, planning and review activities
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     2 associated with the child, including but not limited to
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     3 permanency planning and placement review meetings, which shall
     4 include discussion of the child's rehabilitative treatment
     5 needs.
     6 <u>2. a. The department of human services shall submit a</u> 7 waiver request to the United States department of health and
    8 human services as necessary to provide coverage under the
     9 medical assistance program for not more than three hundred
    10 children at any one time who are described by both of the
    11 following:
           (1) The child needs behavioral health care services and
    13 qualifies for the care level provided by a psychiatric medical
    14 institution for children licensed under chapter 135H.
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           (2) The child is in need of treatment to cure or alleviate
    16 serious mental illness or disorder, or emotional damage as
    17 evidenced by severe anxiety, depression, withdrawal, or
  2 18 untoward aggressive behavior toward self or others and whose
    19 parent, guardian, or custodian is unable to provide such
    20 treatment.
           b. The waiver request shall provide for appropriately
    22 addressing the needs of children described in paragraph "a" by
    23 implementing any of the following options: using a wraparound 24 services approach, renegotiating the medical assistance
  2 25 program contract provisions for behavioral health services, or
    26 applying another approach for appropriately meeting the
    27 children's needs.
28    c. If federal approval of the waiver request is not
    29 received, the department shall submit options to the governor
    30 and general assembly to meet the needs of such children
      through a state=funded program.
Sec. 4. CONTINGENT EFFECTIVE DATE.
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    33 1. The section of this Act amending section 232.2, 34 subsection 6, paragraph "f", shall take effect on the initial
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    35 implementation date of either of the following contingencies,
     1 providing one of the contingencies is implemented:
          a. Federal approval is received for the waiver request
     3 submitted by the department of human services pursuant to
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4 section 234.7, subsection 2, paragraph "a", as enacted by this

5 Act.

6 b. A state=funded program is implemented in lieu of the federal waiver, as described in section 234.7, subsection 2, paragraph "b", as enacted by this Act. 3 The department of human services shall notify the Code 2. 3 10 editor if either of the contingencies in subsection 1 occurs. 3 11 3. If federal approval is received for the waiver request 12 described in subsection 1, paragraph "a", the department of 3 13 human services shall convene a review committee to advise the 3 14 department regarding the waiver's implementation. The 3 15 committee membership may include but is not limited to 3 16 juvenile judges, parents of children participating in the 3 17 waiver, service providers, departmental staff, at least two 3 18 members of the general assembly, and others with knowledge 19 concerning the waiver. The committee shall be convened when 20 there are a sufficient number of children participating in the 3 21 waiver for there to be implementation issues to consider or 3 22 six months following the commencement date of the waiver, 23 whichever is sooner. 4. If federal approval is received for the waiver request 24 3 25 described in subsection 1, paragraph "a", the child or family 26 receiving services under the waiver shall have access to case 4 President of the Senate 4 4 I hereby certify that this bill originated in the House and 4 4 is known as House File 538, Eighty=first General Assembly. 4 5 6 4 7 MARGARET THOMSON 4 8 4 Chief Clerk of the House _, 2005 4 10 Approved _ 4 11 4 12 4 13 4 14 THOMAS J. VILSACK 4 15 Governor